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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
3639	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/702,045	MORSBERGER, LOUIS J.
	Examiner	Art Unit
	Akiba K. Robinson-Boyce	3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 November 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   Due to communications filed , the following is a non-final office action. Claim 15

has been amended. Claims 1-26 are pending in this application and have been

examined on the merits. The previous rejection has been withdrawn, and the following

reflects the claims as amended. Prosecution for this case has been re-opened. Claims

1-26 are rejected as follows.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-10 and 12-26 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Rebane (US 6,711,581).

As per claims 1, 25, 26, Rebane discloses:

Receive transaction information related to a transaction, the transaction

information including consumer information and merchant information/ Receive

transaction/monetary transaction information related to a transaction between a

consumer and a merchant, the transaction/monetary transaction information including

consumer information about the consumer participant in the transaction/to the monetary

transaction, and merchant information/the monetary transaction further including

merchant information about the/a merchant participant in/to the transaction, (Col. 8,

lines 33-42, shows usage of data gathered from merchants and consumers for e-

commerce transactions, w col. 9, lines 13-15, shows online retail transactions between

consumers and merchants for goods or services sold online, which represents the

monetary transaction);

compare the consumer information with predetermined consumer information/

compare the merchant information with predetermined merchant information, (Col. 25,

lines 18-20, calculated values of response rates [which are given by both consumers

and merchants since data can be gathered from both merchants and consumers as

disclosed in the above limitation] are compared to predetermined high thresholds of

response rates).

determine whether to invite the consumer to complete a survey related to the

transaction/monetary transaction, (col. 12, lines 37-40, shows that a consumer making

an online purchase of goods from a merchant's website may be invited to fill out a

consumer satisfaction survey questionnaire following the transaction)

Rebane does not explicitly disclose that the determination is based at least

partially on the comparison of the consumer information and the comparison of the

merchant information, however, this limitation is obvious with Rebane since in Col. 24,

lines 34-60, Rebane shows an example where if response rates fall below a certain

threshold, an indication is sent to the merchant or other party to investigate the

correctable reason, where a reason can be that the survey questionnaire is not being

presented to purchasing consumers due to technical reasons. Since these reasons are correctable, this indicates that in order to keep the response rates inside of the thresholds, the merchant or other party must make sure that the survey questionnaire that wasn't presented, is presented, thereby ensuring that the customer is invited to participate in the survey and not left out due to technical reasons.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the invitation determination to be based at least partially on the comparison of the consumer information and the comparison of the merchant information with the motivation of inviting a consumer to participate in a survey based on how the customer and/or merchant information relates to certain thresholds.

As per claim 2 Rebane discloses:

wherein the consumer information includes…the predetermined consumer information includes information relating to consumers defined as prospective offerees, (Col. 10, lines 45-50, shows that a survey questionnaire may include fields relating to a consumer's particular demographics, preferences, etc., also col. 30, line 66-col. 31, line 1, shows usage of cookies).

Rebane does not explicitly disclose that consumer information includes a consumer identification code, however, this limitation is obvious since Rebane shows that a customer may be invited to fill out a survey questionnaire through a merchant website via HTML, XML, Java Script, ActiveX, Applet, which in this case, a customer ID is needed in order to route the survey questionnaire to the proper customer who has web browser access.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the customer information to include a consumer identification code with the motivation of having the means necessary to identify a consumer for proper survey questionnaire transmission purposes.

As per claim 3, Rebane discloses:

wherein the predetermined merchant information includes information relating to categories of purchases, and wherein determining whether to invite the consumer to complete a survey includes determining whether the transaction corresponds to one of said categories of purchases, and wherein the code representing instructions to cause a processor to determine whether to invite the consumer to complete a survey includes code representing instructions to cause a processor to determine whether the transaction corresponds to one of said categories of purchases, (Col. 8, lines 43-48, shows data can be evaluated according to categories of purchases).

As per claim 4, Rebane discloses:

wherein the code representing instructions to cause a processor to determine whether the transaction corresponds to one of said categories of purchases includes code representing instructions to cause a processor to determine whether there is an unsatisfied quota of survey invitations for the particular type of transaction, (Col. 24, lines 34-60, Rebane shows an example where if response rates fall below a certain threshold, an indication is sent to the merchant or other party to investigate the *correctable* reason, where a reason can be that the survey questionnaire is not being presented to purchasing consumers due to technical reasons).

As per claim 5, Rebane discloses:

wherein the code representing instructions to cause a processor to determine whether to invite the consumer to complete a survey includes code representing instructions to cause a processor to determine whether the transaction meets predetermined criteria and is a qualifying transaction, (Col. 24, lines 34-60, Rebane shows an example where if response rates fall below a certain threshold, an indication is sent to the merchant or other party to investigate the *correctable* reason, where a reason can be that the survey questionnaire is not being presented to purchasing consumers due to technical reasons).

As per claim 6, Rebane discloses:

transmitting to the consumer an invitation to complete a survey relating to the qualifying transaction, (col. 12, lines 37-40, shows that a consumer making an online purchase of goods from a merchant's website may be invited to fill out a consumer satisfaction survey questionnaire following the transaction);

receiving survey information from the consumer relating to the qualifying transaction, (col. 13, lines-51, shows that after a consumer completes a survey questionnaire, the data is fed to a data capture server and logged into a server log); and

processing the received survey information, (Col. 13, lines 51-63, data in server log is then assigned into predefined fields in a database).

As per claim 7, Rebane discloses:

wherein the predetermined consumer information is provided by a party to the

transaction other than a merchant, (Col. 8, line 64-Col. 9, line 9, intermediary data

source).

As per claim 8, Rebane discloses:

offering processed survey information to the merchant, (Col. 16, lines 33-38,

presentation server presents data that has been processed and evaluated by the

system to a merchant);

and granting access to the processed survey information to the merchant, (Col.

16 lines 40-46, shows presentation depends upon parsing and sorting according to the

defined needs/interests of the end-user or merchant).

As per claim 9, Rebane discloses:

wherein the transaction information includes a transaction record, the transaction

record being in at least one of an electronic form and a digital form, and the code

representing instructions to cause a processor to receive transaction information is

configured to receive a set of transaction information regarding several transactions,

(Col. 31, lines 13-24, shows that transaction data in terms of the level of sale

transaction s on a point-of-sale website comes from a database, since this information

comes from a database, it is inherent that this data is in record format, and also in

electronic form since dealing with a website).

As per claim 10, Rebane discloses:

receiving consumer information from participating consumers, (col. 13, lines 27-

37, consumer demographic information , etc.)

developing historical consumer information for each of the participating

consumers, (Col. 5, lines 25-30, using available historical or recently captured data

along with an estimated and/or available saturation population function as the basis for

an algorithm that defines the growth of the population to a maximum attainable level).

receiving transaction information relating to a transaction, the transaction

information including information relating to the consumer in the transaction, (Col. 12,

lines 33-36, data that enters data capture may relate to an online transaction);

determining, using the information relating to the consumer in the transaction,

whether the consumer in the transaction is a participating consumer, (Col. 3, lines 51-

53, shows that traditionally, after a transaction, a consumer must fill out an order

confirmation receipt in order to fill out a survey).

Determining…whether to collect survey information from the consumer in the

transaction, (col. 12, lines 37-40, shows that a consumer making an online purchase of

goods from a merchant's website may be invited to fill out a consumer satisfaction

survey questionnaire following the transaction, in this case, since both occur after a

transaction).

Rebane does not explicitly disclose that the determination is based on using the

historical consumer information, however, this limitation is obvious with Rebane since in

Col. 5, lines 25-30, Rebane discloses using available historical or recently captured data

along with an estimated and/or available saturation population function as the basis for

an algorithm that defines the growth of the population to a maximum attainable level, all

of which occurs after a transaction, and is information that can be presented to and

used by end-users as shown in col. 36, lines 17-24. Rebane also discloses that his

system is used for planning and control in col. 4, lines 54-55, therefore, the information

presented is used by end-users for planning and control after information

retrieval/analysis takes place for an ecommerce transaction, which includes invitation of

a consumer as disclosed above).

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention for the invitation determination to be based on using the historical

consumer information with the motivation of inviting a consumer to participate in a

survey based on previous transaction information.

As per claim 12, Rebane discloses:

wherein the transaction information includes at least one of the category of the

transaction and the payment amount of the transaction, and the code representing

instruction to cause a processor to determine whether to solicit survey information from

the consumer in the transaction includes using at least one of the category of the

transaction and the payment amount of the transaction, , (Col. 8, lines 43-48, shows

data can be evaluated according to categories of purchases).

As per claim 13, Rebane discloses:

wherein soliciting survey information includes transmitting a survey invitation to

the consumer to the transaction, col. 12, lines 37-40, shows that a consumer making an

online purchase of goods from a merchant's website may be invited to fill out a

consumer satisfaction survey questionnaire following the transaction.

As per claim 14, Rebane discloses:

wherein the survey invitation includes a survey instrument, (Col. 9, lines 26-28,

survey questionnaire accessed through a direct link or framed link on a merchant's web

page).

As per claim 15, Rebane discloses:

wherein the transaction information includes a transaction record, the transaction

record being in at least one of an electronic form and a digital form, and the code

representing instructions to cause a processor to receive transaction information is

configured to cause a processor to receive a set of transaction information regarding

several transactions, (Col. 31, lines 13-24, shows that transaction data in terms of the

level of sale transaction s on a point-of-sale website comes from a database, since this

information comes from a database, it is inherent that this data is in record format, and

also in electronic, multiple-access form since dealing with a website).

As per claim 16, Rebane discloses:

a monitoring interface processing transaction information from the transaction,

(Col. 24, lines 15-18, filter used for monitoring);

a processor configured to analyze said transaction record relative to stored

consumer information, the processor further configured to determine whether to solicit

survey information from the consumer to the transaction based at least partially on the

transaction record and the stored consumer information/survey information (Col. 15,

lines 47-48, processing modules, col. 12, lines 33-40, shows that a consumer making

an online purchase of goods from a merchant's website may be invited to fill out a

consumer satisfaction survey questionnaire following the transaction); and

a participant interface enabling the consumer to the transaction to provide survey information, (Col. 9, lines 26-28, shows survey presented to consumer through a link on a web page).

As per claim 17, Rebane discloses:

wherein the transaction record includes information relating to at least one of the category of the transaction and a payment amount of the transaction, and said processor determines whether to solicit survey information based on at least one of a category of the transaction and a payment amount of the transaction, (Col. 8, lines 43-48, shows data can be evaluated according to categories of purchases).

As per claim 18, Rebane discloses:

wherein the information relating to the consumer to the transaction includes an identification code for the consumer to the transaction, and the processor compares identification codes of consumers to transactions with predetermined identification codes of participants in the survey, (Col. 10, lines 45-50, shows that a survey questionnaire may include fields relating to a consumer's particular demographics, preferences, etc., also col. 30, line 66-col. 31, line 1, shows usage of cookies).

Rebane does not explicitly disclose that consumer information includes a consumer identification code, however, this limitation is obvious since Rebane shows that a customer may be invited to fill out a survey questionnaire through a merchant website via HTML, XML, Java Script, ActiveX, Applet, which in this case, a customer ID is needed in order to route the survey questionnaire to the proper customer who has web browser access.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention for the customer information to include a consumer identification

code with the motivation of having the means necessary to identify a consumer for

proper survey questionnaire transmission purposes.

As per claim 19, Rebane discloses:

a merchant interface enabling a merchant to access analyzed survey information,

(Col. 11, lines 25-27, shows data is received for online merchants, w/ col. 11, lines 41-

46, shows that this merchant interacts with network interface).

As per claim 20, Rebane discloses:

wherein the stored consumer information is provided by a party to a transaction

other than the merchant, , (Col. 8, line 64-Col. 9, line 9, intermediary data source).

As per claims 21-24, Rebane does not specifically disclose the following,

however the following is obvious with Rebane since Rebane does disclose electronic

commerce transactions in the abstract, lines 1-5, which traditionally involves financial

institutions to further process the transaction :

Wherein the code representing instructions to cause a processor to receive

transaction information is configured to receive the transaction information from a

financial institution associated with the consumer/wherein the monitor is configured to

receive the transaction information from a financial institution associated with the

consumer/wherein the stored consumer information is provided by a financial institution

associated with the consumer.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to receive information from a financial institution with the motivation

of providing means to complete processing for an electronic commerce transaction.

4.   Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane

(US 6,711,581), and further in view of Kurland et al (US 4,603,232).

As per claim 11, Rebane does not explicitly disclose that consumer information

includes a consumer identification code, however, this limitation is obvious since

Rebane shows that a customer may be invited to fill out a survey questionnaire through

a merchant website via HTML, XML, Java Script, ActiveX, Applet, which in this case, a

customer ID is needed in order to route the survey questionnaire to the proper customer

who has web browser access.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention for the customer information to include a consumer identification

code with the motivation of having the means necessary to identify a consumer for

proper survey questionnaire transmission purposes.

Rebane fails to disclose the following, however Kurland et al discloses:

and the historical consumer information includes at least one of the number of

invitations sent to the consumer and the number of surveys completed by the

consumer, (Col. 7, lines 24-37, [mail-out-count/quota]). Kurland discloses this limitation

in an analogous art for the purpose of showing that the mail-out count of invites reaches

a certain quota.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to keep track of the number of invitations sent to the consumer and

the number of surveys completed by the consumer with the motivation of determining

the customers that need more attention.

Response to Arguments

5.   Applicant's arguments with respect to claims 26 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Akiba K Robinson-Boyce whose telephone number is

571-272-6734. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for

the organization where this application or proceeding is assigned are 703-746-7238

[After final communications, labeled "Box AF"], 703-746-7239 [Official Communications],

and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-305-

3900.

A. R. B.
January 24, 2006

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER